

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

SWISSDIGITAL USA CO., LTD.,

Plaintiff,

v.

WENGER S.A.,

Defendant.

Civil Action No. 6:21-cv-453

Jury Trial Demanded

**LETTER OF REQUEST UNDER ARTICLE 17 OF THE HAGUE CONVENTION OF
18 MARCH 1970 TO THE SUPREME COURT OF THE CANTON OF ZURICH,
INTERNATIONAL LEGAL ASSISTANCE**

I (Items to be included in all Letters of Request)

1. Sender (*identity and address*)

Wenger S.A.
Route de Bale 63
2800 Delémont
Switzerland

Counsel: Reichman Jorgensen-Lehman and Feldberg LLP
1909 K Street, NW, Suite 800
Washington, DC 20006

Counsel: Pestalozzi Attorneys at Law Ltd
Loewenstrasse 1
8001 Zurich
Switzerland

2. Central Authority of the Requested State (*identity and address*)

Supreme Court of the Canton of Zurich
International Legal Assistance
Hirschengraben 15
P.O. Box
8021 Zurich
Switzerland

3. Person to whom the executed request is to be returned (*identity and address*)

Thomas Rohner
Tobias Christen
Pestalozzi Attorneys at Law Ltd
Loewenstrasse 1
8001 Zurich
Switzerland

II (Items to be included in all Letters of Request)

4. In conformity with article 3 of the Convention, the undersigned applicant has the honour to submit the following request:

5. a. Requesting judicial authority (article 3, a) (*identity and address*)

United States District Court for the Western District of Texas, Waco Division
800 Franklin Avenue, Room 301
Waco, Texas 76701
United States of America

- b. To the competent authority of (article 3, a) (the requested State)

Supreme Court of the Canton of Zurich
International Legal Assistance
Hirschengraben 15
P.O. Box
8021 Zurich
Switzerland

6. Names and addresses of the parties and their representatives (article 3, b)

- a. Plaintiff

SwissDigital USA Co., Ltd.
174 Main Street #164
East Aurora, New York, 14052.

Plaintiff is represented by Keyhani LLC, 1050 30th Street NW, Washington, DC 20007, and Naman Howell Smith & Lee, PLLC, 400 Austin Avenue, Suite 800, Waco, Texas 76701.

Correspondence to SwissDigital can be sent by electronic mail to its representatives at the following e-mail addresses: dkeyhani@keyhanillc.com; fstephenson@keyhanillc.com; and jaltman@namanhowell.com.

- b. Defendant

Wenger S.A. ("Wenger")
Route de Bale 63
Delemont, Switzerland, CH-2800

Wenger is represented by Reichman Jorgensen Lehman and Feldberg LLP, 1909 K Street, NW, Suite 800, Washington, DC 20006; and Pestalozzi Attorneys at Law Ltd., Loewenstrasse 1, CH-8001, Zurich, Switzerland.

Correspondence to Wenger can be sent to its representatives by electronic mail at the following e-mail addresses: clehman@reichmanjorgensen.com; tmauze@reichmanjorgensen.com; thomas.rohner@pestalozzilaw.com; tobias.christen@pestalozzilaw.com.

- c. Other parties

None

7. Nature and purpose of the proceedings and summary of the facts (article 3, c)

On April 30, 2021, SwissDigital sued Wenger for infringement of United States Patent Nos. 10,574,071 (“the ‘071 Patent”) and 10,931,138 (“the ‘138 Patent”) (collectively, the “Asserted Patents”) under the patent laws of the United States, 35 U.S.C. § 1 et seq. SwissDigital is a limited liability company organized and existing under the laws of the State of Delaware, United States. Wenger is a corporation organized and existing under the laws of Switzerland. SwissDigital alleges that various backpacks sold in the United States infringe the Asserted Patents. The amount in dispute is at least \$10,000 USD.

8. Evidence to be obtained or other judicial acts to be performed

This Court requests assistance in permitting the commissioners appointed by this Court to take testimony from Mr. Jean-Daniel Bussard, which will be given voluntarily. The topics of examination may include, but are not limited to:

- a. Mr. Bussard’s role and duties working for Wenger;
- b. Knowledge of Wenger, its trademarks, and licensees of its trademarks;
- c. Knowledge of documents related to and produced in this matter; and/or
- d. Any topic for which Mr. Bussard is designated by Wenger pursuant to Federal Rule of Civil Procedure 30(b)(6).

9. Identity and address of any person to be examined (article 3, e)

Jean-Daniel Bussard
Wenger S.A. (“Wenger”)
Route de Bale 63
Delemont, Switzerland, CH-2800

10. Questions to be put to the persons to be examined or statement of the subject-matter about which they are to be examined (article 3, f) (*or see attached list*)

See Exhibit D1 (30(b)(6) topics).

11. Documents or other property to be inspected (article 3, g) (*specify whether it is to be produced, copied, valued, etc.*)

Documents previously produced in the United States case may be inspected at the deposition.

12. Any requirement that the evidence be given on oath or affirmation and any special form to be used (article 3, h) (*In the event that the evidence cannot be taken in the manner requested, specify whether it is to be taken in such manner as provided by local law for the formal taking of evidence*)

It is requested that the testamentary evidence be given on oath or affirmation, to be administered in accordance with United States law, as follows: “Do you swear or affirm that the testimony you are about to provide is the truth, the whole truth, and nothing but the truth?”

13. Special methods or procedure to be followed (articles 3, i and 9)

It is requested that the testamentary evidence be given in the English language. A translator may be provided on the witness's request. The cost for the translator, if any, will be paid by Wenger. It is also hereby requested that the testimony be in the form of recorded deposition testimony upon questions communicated to the witness by U.S. counsel of the parties, acting as commissioners. It is requested that the testamentary evidence be given at some time agreeable to all involved in December 2022 or January 2023, on or around January 10, 2023.

14. Request for information of the time and place for the execution of the Request and identity and address of any person to be notified (article 7)

It is requested that the testamentary evidence be given at some time agreeable to all involved in December 2022 or January 2023, on or around January 10, 2023.

For Wenger, Christine Lehman from Reichman Jorgensen Lehman and Feldberg LLP, 1909 K Street, NW, Suite 800, Washington, DC 20006, USA; and Taylor Mauze of Reichman Jorgensen Lehman and Feldberg LLP, 7500 Rialto Boulevard, Suite 1-250, Austin, Texas 78735, USA.

For SwissDigital, Darius Keyhani and Frances Stephenson of Keyhani LLC, 1050 30th Street NW, Washington, DC 20007, USA; and Jacqueline Altman of Naman Howell Smith & Lee, PLLC, 400 Austin Avenue, Suite 800, Waco, Texas 76701, USA.

It is requested that the above listed U.S. counsel are appointed as commissioners by this Court in accordance with Article 17 of the Hague Convention of 18 March 1970 (together the "**Commissioners**") to take testimony from Mr. Jean-Daniel Bussard in Zurich, Switzerland.

15. Request for attendance of judicial personnel of the requesting authority at the execution of the Letter of Request (article 8)

In addition to the Commissioners, it is also requested that client representatives for each party be allowed to be present, and that a videographer and a stenographer be present to take and record a verbatim transcript of all testimony and proceedings in the English language and that the transcript of the testimony be authenticated. It is further requested that Swiss counsel (including Thomas Rohner/Tobias Christen, Pestalozzi Attorneys at Law Ltd.) be permitted to be present.

16. Specification of privilege or duty to refuse to give evidence under the law of the State of origin (article 11, b)

Mr. Bussard may invoke the rights to refuse testimony or the prohibition of testimony under either Swiss or U.S. law.

17. The fees and costs incurred which are reimbursable under the second paragraph of article 14 or under article 26 of the Convention will be borne by (*identity and address*)

Wenger S.A. ("Wenger")
Route de Bale 63
2800 Delémont
Switzerland

Fees are to be directed to counsel for Wenger, Reichman Jorgensen Lehman and Feldberg LLP, 1909 K Street, NW, Suite 800, Washington, DC 20006, and by electronic mail at the following e-mail addresses:
clehman@reichmanjorgensen.com; tmauze@reichmanjorgensen.com.

III (Items to be included in all Letters of Request)

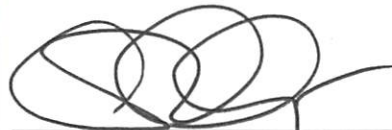
18. Date of Request

December 2, 2022

19. Signature and seal of the requesting authority

[Court Seal]

SIGNED: _____



HON. ALAN D. ALBRIGHT
UNITED STATES DISTRICT JUDGE

December 6, 2022



A true copy of the original, I certify.
Clerk, U.S. District Court

By LDiaz
December 06, 2022 Deputy